

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6289**

**BILL NUMBER:** SB 266

**NOTE PREPARED:** Dec 30, 2012

**BILL AMENDED:**

**SUBJECT:** Neglect of a Dependent.

**FIRST AUTHOR:** Sen. Miller Patricia

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that, for the offense of neglect of a dependent as a Class A or Class B felony, the court is authorized to suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Summary-* LSA examined the sentences of 159 offenders who were committed to the Department of Correction (DOC) between 2007 and 2012 to project the added number of offenders this bill might cause. LSA estimates an additional 12 offenders would be in DOC facilities by 2021 if all persons who are committed to DOC for Class A or B felony child neglect were to serve a mandatory minimum sentence of 20 years for a Class A felony and 6 years for a Class B felony. This bill would have no retroactive effect on the sentences of offenders who are already committed to DOC.

Assuming these offenders can be housed in existing facilities with no additional staff and using the marginal cost for medical care, food, and clothing of \$3,234 annually, the added yearly costs in 2012 dollars to DOC would be less than \$39,000 when by 2021 there would be an additional 12 offenders in DOC facilities.

**Background and Analysis** – Any added increases to the DOC offender population could come from two sources:

(1) an extended stay for offenders who were committed to prison, but were given less than the mandatory minimum sentence in statute because certain mitigating facts in the case might have caused the court to reduce

the prison sentence; and

(2) persons who might have been convicted of child neglect but were sentenced to probation instead.

*Extended Stay for Offenders Committed to DOC for Child Neglect Crimes* – LSA examined the sentencing records of offenders who were committed to DOC facilities between 2007 and 2012 to determine how many offenders had sentences that were less than the minimum sentence.

For Class A felonies, the minimum sentence is 20 years (IC 35-50-2-4), and the minimum sentence for a Class B felony is 6 years (35-50-2-5).

<b>Offenders Committed to DOC for a New Class A and Class B Felony Neglect Conviction</b>							
<u>Felony Class</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Total</u>
Class A	4	5	4	6	13	4	36
Class B	<u>15</u>	<u>16</u>	<u>18</u>	<u>24</u>	<u>18</u>	<u>32</u>	<u>123</u>
Grand Total	19	21	22	30	31	36	159

Of these offenders, LSA found the number of offenders who were given a prison sentence that was less than the mandatory minimum.

<b>Offenders with Sentences Less than the Minimum Sentence for a Class A or B Felony</b>							
<u>Felony Class</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Total</u>
Class A			2	1	2	2	7
Class B	7	9	7	6	4	5	38

To estimate the added number of offenders for the period between FY 2014 and 2021, LSA assumed that in future years a portion of offenders who might otherwise receive a sentence that was less than the mandatory minimum sentence would now serve the mandatory minimum sentence.

Between 2007 and 2012, about 20% of Class A felony offenders received a prison sentence that was less than the mandatory minimum of 20 years (7 out of 36), while 31% (38 out of 123) of Class B felons received a prison sentence that was less than 6 years.

Using these assumptions, LSA projects the following additional offenders in DOC facilities between 2014 and 2021.

<b>Added FTE Offenders in DOC Facilities</b>								
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Extended Stay in Prison	1	3	9	9	10	10	11	12

*New Offenders Who Might Otherwise Have Been Placed on Probation* – LSA examined 205 court records of defendants in 50 counties who were charged with felony neglect in CY 2010. LSA found no offenders who

were convicted of Class A or B felony neglect who were sentenced only to probation.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts.

**Information Sources:** Department of Correction Offender Information System; Doxpop LLC.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.